

JUDGE ABRAMS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Annamarie Irombetta
Artist

Write the full name of each plaintiff.

18 CV 0993

CV

(Include case number if one has been assigned)

-against-

Norb Novocin
Marie Novocin
Estate Auctions, Inc.

COMPLAINT

Do you want a jury trial?

☒ Yes ☐ No

Write the full name of each defendant. If you need more space, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section II.

FILED
U.S. DISTRICT COURT
SDNY
2018 FEB -5 PM 1:49
CLERK OF COURT

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore not contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include only: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. BASIS FOR JURISDICTION

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation, and the amount in controversy is more than \$75,000, is a diversity case. In a diversity case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal-court jurisdiction in your case?

☐ Federal Question

☒ Diversity of Citizenship

A. If you checked Federal Question

Which of your federal constitutional or federal statutory rights have been violated?

The Lanham Act Federal
The Visual Artist Rights Act - Federal
The Copyright Infringement Act - Federal
 * New York State Laws - The New York Consolidated Laws, Arts & Cultural Affairs
Article 14.93
* The Right of Publicity Section 50 + 51

B. If you checked Diversity of Citizenship

1. Citizenship of the parties

Of what State is each party a citizen?

The plaintiff, Annamarie Trombetta, is a citizen of the State of
 (Plaintiff's name)

New York

(State in which the person resides and intends to remain.)

or, if not lawfully admitted for permanent residence in the United States, a citizen or subject of the foreign state of

If more than one plaintiff is named in the complaint, attach additional pages providing information for each additional plaintiff.

If the defendant is an individual:

The defendant, Norb Novocin Marie Novocin, is a citizen of the State of
(Defendant's name)

Delaware

or, if not lawfully admitted for permanent residence in the United States, a citizen or subject of the foreign state of

If the defendant is a corporation:

The defendant, Estate Auctions Inc, is incorporated under the laws of
the State of Delaware

and has its principal place of business in the State of Delaware

or is incorporated under the laws of (foreign state) _____

and has its principal place of business in _____

If more than one defendant is named in the complaint, attach additional pages providing information for each additional defendant.

II. PARTIES

A. Plaintiff Information

Provide the following information for each plaintiff named in the complaint. Attach additional pages if needed.

Annamarie Trombetta

First Name Middle Initial Last Name

175 East 96th Street (12R)

Street Address

New York

New York

10128

County, City

State

Zip Code

(212) 427-5990

atrombettaart@gmail.com

Telephone Number

Email Address (if available)

B. Defendant Information

To the best of your ability, provide addresses where each defendant may be served. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are the same as those listed in the caption. Attach additional pages if needed.

Defendant 1:

Norb Novocin

First Name

Last Name

Owner Estate Auctions Inc.

Current Job Title (or other identifying information)

12221 Old Furnace Road

Current Work Address (or other address where defendant may be served)

Seaford Delaware, 19973

County, City

State

Zip Code

Defendant 2:

Marie Novocin

First Name

Last Name

Owner Estate Auctions Inc.

Current Job Title (or other identifying information)

12221 Old Furnace Road

Current Work Address (or other address where defendant may be served)

Seaford, Delaware 19973

County, City

State

Zip Code

Defendant 3:

Estate Auctions Inc.

First Name

Last Name

Company

Current Job Title (or other identifying information)

12221 Old Furnace Road

Current Work Address (or other address where defendant may be served)

Seaford Delaware, 19973

County, City

State

Zip Code

Defendant 4:

First Name

Last Name

Current Job Title (or other identifying information)

Current Work Address (or other address where defendant may be served)

County, City

State

Zip Code

III. STATEMENT OF CLAIM

Place(s) of occurrence:

Internet Web Posting

Date(s) of occurrence:

December 2016 → Originally posted from December 2016

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and what each defendant personally did or failed to do that harmed you. Attach additional pages if needed.

See Attachments of 3 pages
with Photos Documenting
Claim

SEE
Attachments
3 Pages

Plaintiff Annamarie Trombetta--Professional Fine Artist - vs -
Defendant Marie and Norb Novocin ---Owners of Estate Auctions Inc

Attachment of Facts

1. In late summer of 2015, via the internet, I found out that in December 2012 Estate Auctions Inc, which is owned and operated by Marie and Norb Novocin sold a painting that they falsely misattributed to me.
2. On December 1, 2012 Marie and Norb Novocin sold an Oil painting dated 1972, entitled "Man with a Red Umbrella". In their description listing was an internet posting and link that the painting was signed Annamarie Trombetta and that I painted it in 1972. They also included in the description on the internet a photo of a signature on the painting which is not my signature. The photo signature is A. Trombetta. The painting description documents that it was signed Annamarie Trombetta. The Estate Auction Inc. description stated there were " 12 photos . The photos of the images were not visible online, only the photo of the A. Trombetta signature signed in oil.
3. In 1972 I was nine years old and was not painting at all. My website biography makes that clear. Estate Auctions Inc. copied information from my artistic website and listed my biography on their on-line store for their e-Bay internet site . This posting was listed under my name and profession/Artist listing on the internet. This is how I found and kept finding false links and additional information.
4. Value--The 1972 "Man with the Red Umbrella" sold for \$181.50 and was described as a large oil approx. 17 1/2 wide X 48 1/2 tall. The description states that there is a tear in the canvas 5/8 long and is described as "shabby chic". Further, the EA Inc. listing stated that the painting was "signed on the bottom but on the back it has written in red on the stretcher, Annamarie Trombetta " Gifted" 1977, Painted 1972. I did not paint in oil until 1981. My biography which was copied and used by Estate Auction Inc. indicates when I began painting and it was not in 1972.
5. This damaged low bid priced painting which is falsely attributed to my name posted on the internet greatly devalues my work and the integrity of the quality of my materials used to create my work. This is defamation.
6. The prices of my artwork at present are **not listed on the internet nor on my website**. The Estate Auction Inc. misappropriated sale which attributed a false damaged painting with a low price to my name undermines the value of my work which constitutes libel. Some examples of my current retail value is 2 inch by 2 inch miniature oil painting sold in 2016 for \$500. A painting sold in 2017 is an oil size 16 inch by 20 inch which was purchased for \$5500.
7. I created all the content--text(biography) and visuals on my website and I am the sole owner and author of that content. The Digital Millennium Copyright Acts permits others to use the text for education but does not for the use to gain a profit.

8. I never gave Estate Auctions Inc. the right to use my name nor to use the content of my biography. As the owner of the copyright I did NOT sell the reproduction rights nor did I sell the license to print while I retain the Copyrights. No such transaction with either EA Inc or Worthpoint happened.
9. I am a New York artist who creates, sells & exhibit my work in NY City. Most of my subject matter is of New York, Central Park in particular. In 2015 I had 2 solo exhibits on my Central Park artwork, one venue was at a museum. The false painting was posted on the internet and is visible throughout the world. The internet posting was up since the sale of December 1, 2012 until 2017.
10. This posting caused the value and sales of my work to decrease. I know of one lost sale due to this posting after my two solo exhibits in 2015.
11. Estate Auctions Inc. defines themselves under their description for the 1972 Original Oil Painting Man With Red Umbrella Signed Annamarie Trombetta YQZ as the "seller of Antiques, Collectibles and Quirky items on eBay. E Bay is described as an internet multi-national e-commerce corporation. Estate Auctions Inc states that they have been in business "since 1998. ALL of their auctions start at 99 cents.
12. The misappropriated painting and the use of my name in association has been posted on the internet since the sale of the fraudulent artwork on December 1, 2012 according to Gregory Watkins who is the website master at Worthpoint.com. Worthpoint is an internet website which posts the sales made by Estate Auctions Inc. The photo feature of the signature A.Trombetta--a signature that was NOT MINE featured the ebay logo and had with the © symbol & "Copyrighted work licensed by Worthpoint".

To clarify my reason for this legal action I will give a brief history prior to commencing this lawsuit.

13. **History**--Beginning in 2015 I had two solo exhibitions. There were four articles written on my exhibits which in time were on the internet.
14. In mid August 2015 a colleague brought to my attention the false posting using my personal and detailed biography which was listed on the Worthpoint.com website stating that the painting was sold. The e Bay logo and statement "Copyrighted work licensed by Worthpoint" appeared under a signature "A.Trombetta painted in oil on canvas which is not mine.

15. From late August to October 2015 I kept contacting e Bay by phone and via e-mail to no avail and /or derived any conclusive information.
16. From late October 2016 I kept contacting Worthpoint.com which was the website which listed the posting of the misappropriated painting sold by Estate Auctions Inc. I was unable to contact or receive a response until I signed onto their website Membership. Anita who worked at Worthpoint was my phone contact. After many calls I informed her that I was NOT the artist who painted this image etc. In February 2016 I spoke with Worthpoint's Web Master/Designer Gregory Watkins at (770) 344-9182. Mr. Watkins gave me the e-mail of William Sieppel will@worthpoint.com & I was given a removal ticket # 57675. In time the internet post disappeared.
17. In December 2016 I found the Worthpoint posting on the internet again under Annamarie Trombetta & Artist Annamarie Trombetta. This time I and one of my collectors, Teri Meissner contacted the original seller of the false painting which was Estate Auctions Inc. Upon receiving a no answer response, I phoned Marie Novocin on January 10th 2017. Shortly after I received a phone call from Norb Novocin . In short he stated they did nothing illegal and that I should "GO FOR IT and hire an attorney".
18. In January I also contacted Will Sieppel CEO at Worthpoint.com via e-mail to have the second posting removed AGAIN from the internet.
19. In September of 2017 Attorney Megan Noh of Cahill Cossu Noh & Robinson sent a Letter to Marie & Norb Novocin for Settlement Purposes. Megan Noh did not receive any response. She called to confirm receipt of the letter which Marie Novocin did confirm yet she refused to accept any liability.
20. In October 2017 I made a report with the BBB of Delaware. A response letter from November 28, 2017 was forwarded to the Delaware Better Business Bureau by Marie Novocin which contained either incorrect and or false statements. These Statements regarding myself and the Letter from Attorney Megan Noh are:
 1. **"We have not bought or sold anything from her".** Her is Annamarie Trombetta
 2. **"she was very upset with us, and threatened to get a lawyer to force us to divulge our buyer's name.**
 3. **"we received a demand letter from an attorney on behalf of the person filing the complaint with you for damages. This was forwarded to our attorney who assured us that we did nothing wrong and not to respond to the demand letter. There was no mention of providing the name of the buyer of the painting in question"**
 4. **"Her contention that we used information from her website is incorrect "** EAInc. made a sale/profit & misattributed this painting that I did not paint.

Both the New York State Arts & Cultural Affairs Laws Article 14 Section 14.03



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- [Home](#) > [Worthopedia™](#) > 1972 Original Oil Painting Man With Red Umbrella Signed Annamarie Trombetta yqz

1972 Original Oil Painting Man With Red Umbrella Signed Annamarie Trombetta yqz

- Sold for: [Start Free Trial](#) or [Sign In](#) to see what it's worth.
- Item Category:
- Source: [eBay](#)
- Sold Date: Dec 01, 2012
- Channel: Online Auction

Welcome to EstateAuctionsInc! We are one of the Top Sellers of Antiques, Collectibles and Quirky items on eBay. We have been selling since 1998 and ALL of our auctions start at .99 cents. We are proud to announce that we maintain a "FIVE STAR Detailed Seller Rating" and our staff strives for 100% customer satisfaction, our 100% feedback rating will vouch for that. We work with consigners from Coast-To-Coast and work hard to make sure we have top quality items. We are "Your Quality Zone" - search "YQZ" to see our other listings our !

>>>>> UP IN THIS AUCTION <<<<< 1972 Original Oil Painting Man With Red Umbrella Signed Annamarie Trombetta New York Listed Artist - Shabby Chic Condition

- DESCRIPTION - Please be patient there are 12 photos to be loaded in this auction. Up in this auction is a wonderful and delightful oil on canvas painting of a man (I guess it could be a woman) with a red umbrella. This is by Annamarie Trombetta. It is signed on the bottom, but on the back it has written in red on the stretcher, Annamarie Trombetta "Gifted" 1977, "Painted" 1972. To our eyes it looks like it is after the style of Andre Kohn. It is quite large being approx. 48 1/2" tall and 17 1/2" wide. We are calling it shabby chic condition as it has a tear in the canvas, about 5/8" long just to the left of the man's knees, but still such a great painting. For those not familiar with Trombetta, here is information about her from off AskArt as they got it from her

<http://www.worthpoint.com/worthopedia/1972-original-oil-painting-man-red-48924172>

1972 Original Oil Painting Man With Red Umbrella Signed Annamarie Trombetta yqz (12/01/2012)

8/1/15, 8:4

website: Annamarie Trombetta (1963 -) Lived/Active: New York The nature of an artist's life, creativity and growth may be synonymously expressed in the image of an archetypal tree. Beginning with the earthly descent roots the artist like the tree branches out into its surrounding environmental and celestial world. Both ascend and descend, widening their girth of consciousness while producing visual imagery, weathering each season of change. Thus, I believe it is the nature of the artist and of nature itself to regenerate and manifest. All of the imagery in this catalog was either created en plein air or from the subject directly. My journey to becoming an artist began many years ago. The consanguineous roots of my Italian family tree provided me with an innate constitution for my artistic profession. When I was a tiny seed of contemplative thought, my artistic nature began to sprout interest while gazing up at the ceiling paintings in a neighborhood church named Regina Pacis, meaning Queen of Peace. The church located in Brooklyn, NY features ceiling paintings, sculptures, marble interiors, and incorporates architectural elements for the façade and the belfry that are of Italianate design. Before the age of three I was able to surmise that the church in the ceiling painting was indeed the church I was in. The visual stimulation was a form of education. It fostered my sense of perception which became my strongest mode for acquiring knowledge. As the years unfurled, my family moved to Staten Island. At this time it was a scenic field of luminosity, lush vegetation and a harbor view complete with sail boats and small yachts. A few years after we moved my tree of life was in jeopardy of losing a limb. What appeared to be a swollen leg was indeed a cancerous tumor. It was an almost fatal or perhaps even a fated occurrence in my life. The struggle to survive the experience was lightened by my imagination and by my artistic ability to create. I seriously thought I would go into medicine but the posters and paintings in the hospital and doctor's office held my attention more intensely. I began my formal training at The Brooklyn Museum School of Art while I was in high school. The exposure to various forms of art inspired me to expand my horizons and in the early Eighties I traveled on a summer tour to Europe. The tour comprised of six countries; Germany, Austria, France, Italy, Switzerland and England. Viewing so many different cities and cultures in a concentrated period of time...

Similar Items

No image
available

Oil painting, original oil painting, impressionism

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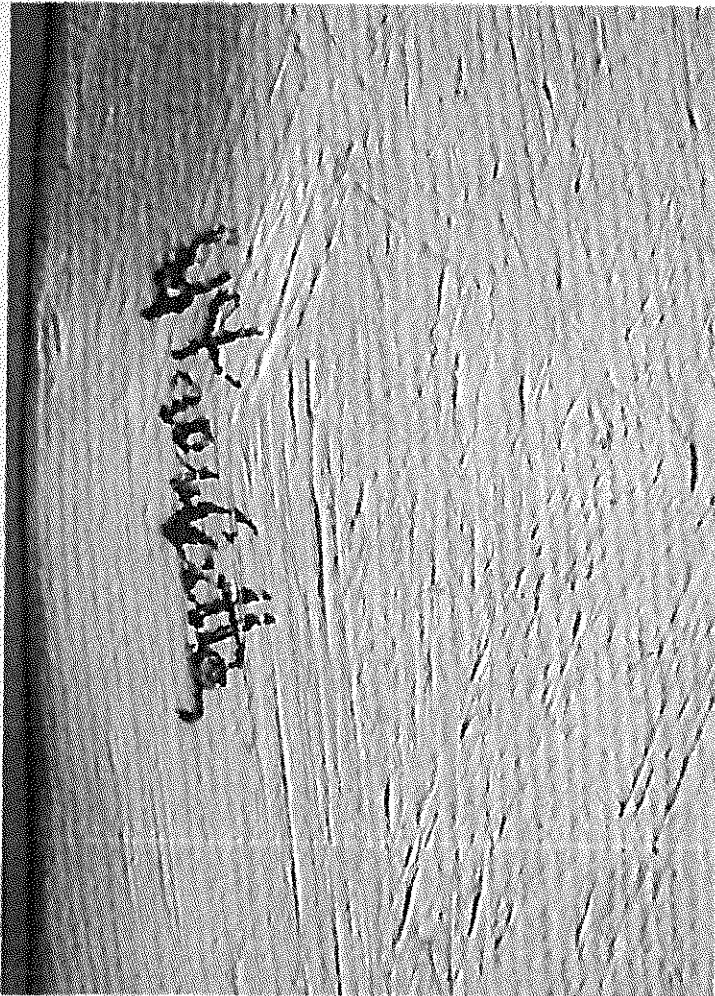
original oil painting on canvas

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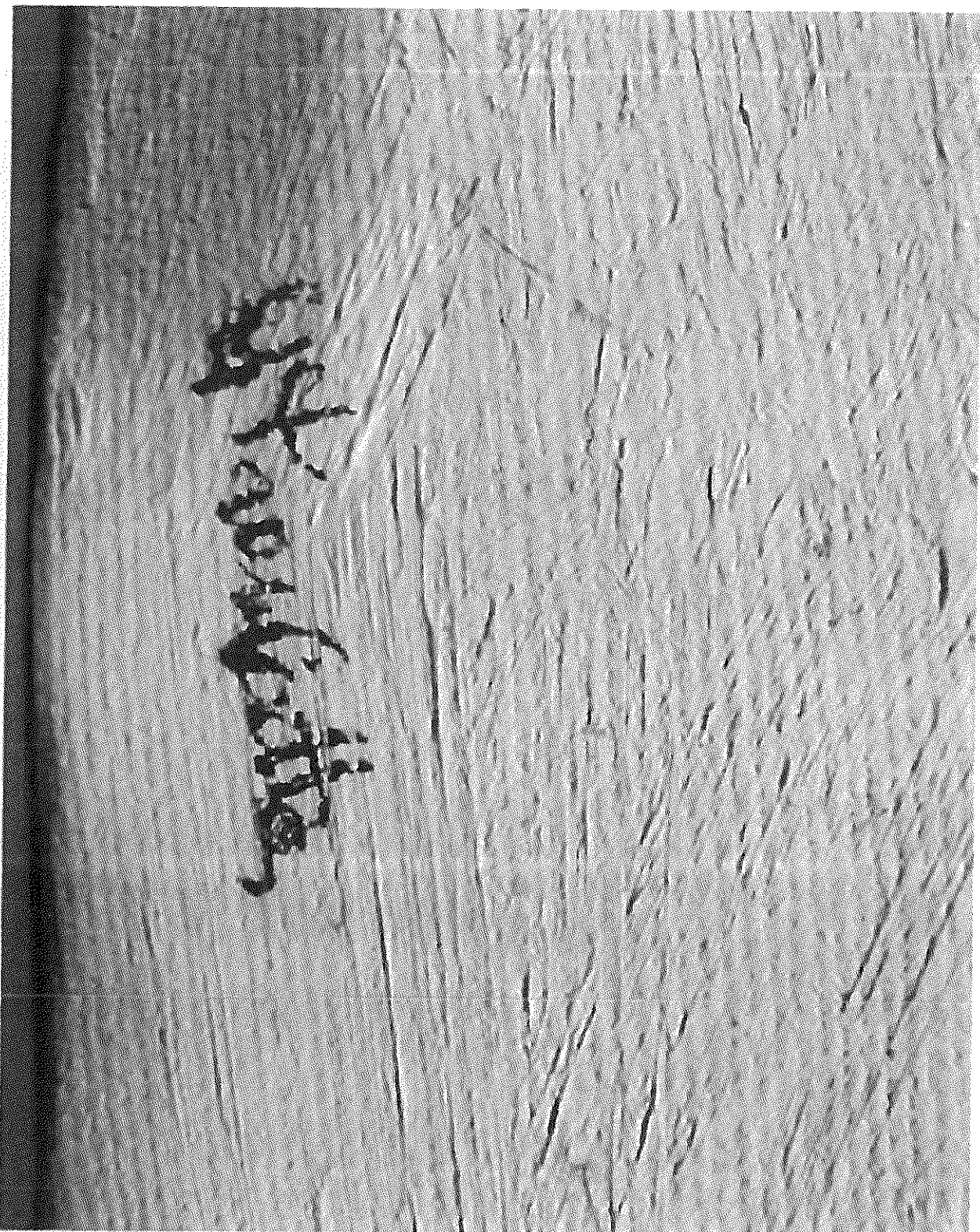
1972 Original Oil Painting Man With Red Umbrella Signed Annamarie Trombetta yqz (12/01/2012)



ebay

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ebay

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INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

See Attached Document



See Attached Document

IV. RELIEF

State briefly what money damages or other relief you want the court to order.

See Attached Document

defines The Rights of the Artists Authorship and the VARA Act of 1990 as well.

Plaintiff Annamarie Trombetta--Professional Fine Artist - vs -
Defendant Marie and Norb Novocin ---Owners of Estate Auctions Inc

INJURIES

In January 2015 I had two Solo exhibitions after a period of ten years. The last Solo exhibition took place in 2005. I had an accident in 2003 and was seriously injured and after my last solo exhibit in 2005 I required surgery. I was in physical and occupational therapy since 2003 until late 2013. I emerged out of a difficult situation to have my first Solo exhibit in 10 years at the Union League Club Gallery on Park Avenue and East 34th Street in New York City. The Union League Club was founded in part with the involvement of Frederick Law Olmsted designer of Central Park, the nation's first public urban park. My solo exhibition featured my artwork based on the theme of Central Park. The exhibit was one month. My second Solo exhibition was at The Italian American Museum in "Little Italy" which also lasted one month.

In the months that followed I received four favorable write up and some sales ensued but not as I had hoped. A friend in earnest contacted me about a listing found under my name on the internet. I know the Estate Auction Inc. posting for certain cost me one definite sale.

The arduous task began to try and figure out who posted this listing and how do I remove this FALSE posting. Months of Stress ---Worry---Work-- Loss of Income and Time----Disappointment and Frustration required me to return back to an Orthopedic Specialist. He stated that stress and emotional turmoil can aggravate injuries. I was in physical therapy for months. Further my other doctor who is a general physician also found that I had thyroid issues.

This ordeal with a low bid --FALSE ORIGIN---that unethically used my personal biography without my consent was and still is a serious and unjust hardship for me to endure. I have lost a great deal of time---opportunities ---money and physical stamina from such an egregious and willful act. All my efforts within the year of 2017 to contact the couple who committed the False misappropriation have been ignored. The owner who admitted to selling this false painting suggested that I "hire an attorney" which I did and who sent a letter to Estate Auctions Inc. They never replied to the attorney's letter, thus leading me to spend more time and agony to bring about a lawsuit. I recorded a phone conversation between Norb Novocin and myself which documents what was said and how it was said between us.

The end of 2015 and most of 2016 required me to be in physical therapy and had continuous doctor visits.

Plaintiff Annamarie Trombetta--Professional Fine Artist - vs -
Defendant Marie and Norb Novocin ---Owners of Estate Auctions Inc

RELIEF

First and Foremost I am seeking "**Declaratory Relief**" and requesting the Court to Officially state that I did NOT paint/create an " Oil Painting in 1972 Man with a Red Umbrella" and the photo signature is NOT by my hand.

Second I am seeking Relief for the Federal Laws Violated in which there are three plus the New York State Laws in which there are three.

The Federal Violations and Acts include and entitle me to the following:

1)**The Visual Artist Rights Act** entitles me to 1) Actual and 2) Statutory Damages
3) Moral Rights

2)**The Lanham Act** Violation A) False Designation of Origin
B) Interstate Commerce Effect

People all over the country and the world have access to the internet. The posting came up under several listings--FIRST--Under my personal name SECOND- Under my Profession-Google search for Artist Annamarie Trombetta

C) Created the likelihood of confusion amongst the consuming public

3)**The Copyright Infringement Act** Claim for an Actual Loss of Sale of Artwork

My New York State Claims include Three Specific Violations

1) **The Right of Publicity** law. Section 50 Right of Privacy and 51 § 51. Action for injunction and for damages This law entitles me to seek damages for Emotional and Physical Distress which I elaborated on under INJURIES question.

2)**The New York Consolidated Laws on Arts & Cultural Affairs Title C Article 14.03** Artist Authorship Rights entitles me to see damages for the unauthorized use of my name.

In SUMMARY I am seeking Damages in the Amount of \$76,000 for the Following Reasons:

- 1) The known loss of a sale of Artwork---\$8000 which my attorney's letter requested and was ignored. In addition a phone call was made to confirm receipt of the letter. The effort to gain the name of the owner--a settlement---and to resolve this situation simply were addressed and ignored by Estate Auctions Inc,
- 2) The past -present and future damaging effects to my artistic reputation. THE POSTING WAS UP SINCE DECEMBER 2012 --UNTIL DECEMBER 2016.
- 3) Physical and Emotional pain and suffering due to this false designation of origin and world wide internet posting. The cost and time for legal consultations etc. have increased the relief to request the amount to be \$76,000 or whatever the court deems proper, just and suitable.

